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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,551	06/28/2002	Satoshi Mekata	AKY-0002	3224

23353 7590 04/24/2003

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EXAMINER

LEVY, NEIL S

ART UNIT	PAPER NUMBER
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1616

DATE MAILED: 04/24/2003

7

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

Applicant(s)

Examiner

Group Art Unit

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 6/28/02
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-3 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-3 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☒ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☒ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 3
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

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Receipt is acknowledged of IDS (4/1/02) and declaration (6/28/02). Please include translation of uninitialed references.

Please indicate status as 371 after title @ p.1 of spec.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

“Effective ingredient” should be identified, or identified as to what effective for. It is unclear what is claimed-what is the uniform phase a uniform phase of? The concentrate, the concentrate + what? What else is present besides the concentrate? What is the flash point referring to; the concentrate? The whole? Claim 2 contradicts claim 1, in that separation is required of a uniform phase. Also; one can not add into a “consisting of” format; so claim 2 is wrong-the liquids need to be in 1. Further, including is open language, demoting consisting of, to open language.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by SUK-Ca 1166374.

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Here is the instant critical components of glycols (p.3, lines 19-27) polyols ether, water (p.2, top) , as a single phase system (p.4, lines 8-14). Also present are oil ingredients (p.5, lines 19-24), and effective, ingredients-pigments, surfactants, etc (p.4, lines 27-29). See p.7 for concentrations, and of the instant invention as claimed, and claimed + 4 or 16 or 32.

Claims 1-3 are rejected under 35 U.S.C. 102(a) as being anticipated by Watanable et al. EP 0888716.

See formulation example 4 oil, tiyssop; polyol, carare-diol; effective Allethrin, the whole in olephilic liquid-alcohol, with water and DME added. Although the instant concentrations are not used in this example, formulations were stated to incorporate oil @ 0.1-50% (p.3, lines 17-19).

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Yamada et al-EP 0521455.

Effective agents (p.1, line 53-line 19, p.4), including insecticides, with oils upto 10%, (p.4, lines 29-31) with glycols and water to 50% (p.4, lines 32-35) and 1-99% DME (p.3, lines 44-46) meets the instant claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neil Levy whose telephone number is 308-2412. The examiner can normally be reached on Tuesday- Friday 7:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jose Dees can be reached on 308-4628. The fax phone numbers for the

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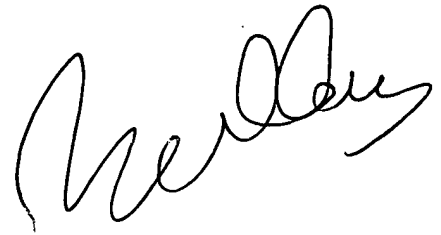
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organization where this application or proceeding is assigned are 308-4242 for regular communications and 872-9307 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 308-1235.

Levy/tgd
April 21, 2003

A handwritten signature in black ink, appearing to read "Neil S. Levy". The signature is fluid and cursive, with a large initial "N" and a long, sweeping underline.

NEIL S. LEVY
PRIMARY EXAMINER